IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3002 OF 2005

Yunus Rashid Pathan ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr.Vikas Shivarkar for the Applicant
Mr.R.Y.Mirza,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : JUNE 23,2005.

P.C.:

1. Heard Counsel appearing for the parties.

2. The Applicant along with other co-accused are the accused in the F.I.R. registered at Hinjawadi Police Station, Pune for the offence punishable under sections 302,307,323,504 read with Section 34 of I.P.C.

3. The allegation against the Applicant made by the Complainant Aslam Shaikh is that on 28th November 2004 at about 9.00 p.m. the Applicant and his three friends came near the complainant and the Applicant demanded a cigarette from the complainant and when he refused to provide cigarette, the Applicant and his friends assaulted the complainant and his brother by fist blows and kicks. The complainant alleged that he suffered head injury and his brother has suffered injuries on the face.

4. It is not in dispute that the investigation has been completed and the charge sheet has been filed. It is also not in dispute that co-accused have been released on bail. The application made by the Applicant before the Sessions Court was rejected on the ground that the Applicant was named by the Eye Witness who is also injured in the incident. It is pointed out that the death of the deceased occurred due to the head injury. The learned Judge held that other accused were released on bail as they were not named in the F.I.R.

5. After having heard Counsel appearing for the parties and after perusing the material produced by the prosecution, I find that the complainant person has stated in F.I.R. without naming the co-accused that they were friends of the Applicant. Moreover, the other co-accused have been specifically named by the other Eye Witness.

6. Even the complainant identified the co-accused as the friends of the Applicant and other co-accused have been specifically named by other Eye Witness. There is no reason not to release the Applicant especially when no different role is ascribed to the Applicant in so far as the allegations of assault are concerned. Therefore, a case for grant of bail is made out. It is made clear that the observations which I have made are for a limited purpose of considering the application for bail.

7. Hence I pass the following order :

i) The Applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.25,000/- (Rupees twenty five thousand) with one or two sureties in the like amount.

ii) The Applicant is granted bail subject to the condition that the Applicant will not make any attempt in any manner directly or indirectly to influence or pressurise the prosecution witnesses and will not tamper with the prosecution evidence.

iii) The Applicant will cooperate with the Trial Judge for expeditious disposal of the trial and any default on the part of the Applicant may be a ground for cancellation of the bail.

JUDGE